

REMARKS

Claims 2, 3, and 5-8 are pending. A Final Office Action mailed March 10, 2004 rejected Claims 2, 3, and 5-8 under 35 U.S.C. §§ 102 and 103. By way of this Amendment, Applicant amends Claims 5-8. Pursuant to 37 C.F.R. §1.116, Applicant hereby respectfully requests reconsideration of the Application.

Rejection of Claims 2, 3, and 5-8 under 35 U.S.C. § 103

The Office Action rejects Claims 2, 3, and 5-8 as being unpatentable over U.S. Patent to Nguyen et al in view of LeMaire et al. The Office Action stated that Nguyen discloses a method and system for connecting different hosts that have different communication protocols, and include the steps of determining if a request to receive a multicast signal has occurred, testing the sub-network, and implementing a first multicast protocol. The Office Action states that Nguyen et al is unclear on testing and using a "subsequent multicast protocol" if the result of a test for the first multicast protocol is below a certain criteria. The Office Action states that it would have been obvious to one skilled in the art prior to Applicant's invention to perform a "reachability test" for a subsequent multicast protocol. The Office Action further states that the background of LeMaire et al discloses that routers use more than one multicast protocol and that one skilled in the art would have been motivated to look for a second multicast protocol if a first multicast routing protocol is not present. With regard to amended Independent Claims 7 and 8, Applicant respectfully traverses this rejection.

Applicant submits that Nguyen et al and Le Maire et al fail to teach or suggest alone or in combination a user system that receives a multicast signal over a public data network that performs implementing a tested for first multicasting protocol if the result of the test includes receiving a message that indicates the first multicasting protocol is capable of being used or is presently being used and the received message meets a preset criteria. Applicant submits that each host system seeks to disseminate information to a plurality of destination hosts. The server

uses its matrix data structure to ensure that each destination receives the data by the most efficient means (col. 5, lines 30-37). Applicant submits that if any analysis or tests are being done they are being performed by the server or the generator of the multicast product and not the user system (i.e., destination host) as claimed in Claims 7 and 8. Le Maire et al fails to overcome this deficiency of Nguyen et al. Therefore Applicant submits that Claims 7 and 8 are allowable over the cited references. Because Claims 3, 4, 5, and 6 depend from allowable independent Claims 7 and 8, they are allowable for the same reasons that make their independent claims allowable.

Rejection of Claims 2, 3, and 5-8 under 35 U.S.C. § 102

The Office Action rejects Claims 2, 3, and 5-8 as being anticipated by Chaddha. The Office Action states that Chaddha discloses making an intelligent decision where the client tests the network for a first base layer protocol...thus, inherently taught by a control algorithm are the steps of first testing a multicast protocol and then implementing the multicast protocol if the test is successful. With regard to amended Independent Claims 7 and 8, Applicant respectfully traverses this rejection.

Applicant has amended Independent Claims 7 and 8 in order to clarify that multicast protocol refers to a multicast routing protocol. Support for this clarification appears in FIGURE 4. The modes tested for in FIGURE 4 are multicast routing protocols. PIM Sparse Mode and Border Gateway Protocol are examples of different multicast routing protocols. Chaddha discloses using only one type of multicast routing protocol (Real-Time Transport Protocol - RTP) (col. 14, lines 55-65). Chaddha appears to be selecting from different resolution levels (col. 7, lines 20-25). Therefore, applicant submits that Chaddha fails to teach or suggest testing a subnetwork at a user system for multicast routing protocols that are capable of being used by the user system. Therefore Applicant submits that Claims 7 and 8 are allowable over the

cited reference. Because Claims 3, 4, 5, and 6 depend from allowable independent Claims 7 and 8, they are allowable for the same reasons that make their independent claims allowable.

CONCLUSION

Applicant respectfully submits that all of the claims of the pending application are now in condition for allowance over the cited references. Accordingly, Applicant respectfully requests entry of the amendment, withdrawal of the rejections, allowance, and early passage through issuance. If the examiner has any questions, the examiner is invited to contact the Applicant's agent listed below.

Respectfully submitted,

BLACK LOWE & GRAHAM^{PLLC}



Michael S. Smith

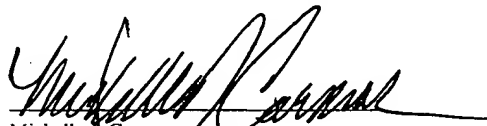
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Direct Dial: 206.794.9888

MAIL CERTIFICATE

I hereby certify that this communication is being deposited with the United States Postal Service via first class mail under 37 C.F.R. § 1.08 on the date indicated below addressed to: MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Michelle J. Carman

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BLACK LOWE & GRAHAM^{PLLC}



701 Fifth Avenue, Suite 4800
Seattle, Washington 98104
206.381.3300 • F: 206.381.3301